

1-1 By: Goldman (Senate Sponsor - Hancock) H.B. No. 2279  
 1-2 (In the Senate - Received from the House May 1, 2017;  
 1-3 May 4, 2017, read first time and referred to Committee on Business  
 1-4 & Commerce; May 19, 2017, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
 1-6 May 19, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2279 By: Hancock

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of residential service contracts.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 1303.002, Occupations Code, is amended  
 1-24 by adding Subdivisions (2-a) and (3-a) and amending Subdivision (5)  
 1-25 to read as follows:  
 1-26 (2-a) "Executive director" means the executive  
 1-27 director of the Texas Real Estate Commission.  
 1-28 (3-a) "Reimbursement insurance policy" means a policy  
 1-29 of insurance issued to a residential service company to:  
 1-30 (A) provide reimbursement to the residential  
 1-31 service company under the terms of the insured residential service  
 1-32 contracts issued or sold by the residential service company; or  
 1-33 (B) pay on behalf of the residential service  
 1-34 company, in the event of the residential service company's  
 1-35 nonperformance, all covered contractual obligations incurred by  
 1-36 the residential service company under the terms of the insured  
 1-37 residential service contracts issued or sold by the residential  
 1-38 service company.  
 1-39 (5) "Residential service contract" means an agreement  
 1-40 that is entered into for a separately stated consideration and for a  
 1-41 specified term under which [~~in exchange for a fee,~~] a person  
 1-42 agrees to, in the event of the operational or structural failure of  
 1-43 or damage caused by a defect in materials or workmanship or by  
 1-44 normal wear to [~~undertakes for a specified period to maintain,~~  
 1-45 ~~repair, or replace all or any part of~~] a structural component, an  
 1-46 appliance, or an electrical, plumbing, heating, cooling, or  
 1-47 air-conditioning system of a residential property that is attached  
 1-48 to or located on the residential property:  
 1-49 (A) [~~The term does not include a service or~~  
 1-50 ~~maintenance agreement sold, offered for sale, or issued by a~~  
 1-51 ~~manufacturer or merchant under which the manufacturer or merchant~~  
 1-52 ~~undertakes to~~] maintain, repair, or replace all or any part of the  
 1-53 [~~a product or part of a product, including a~~] structural component,  
 1-54 [~~an~~] appliance, or [~~an~~] electrical, plumbing, heating, cooling, or  
 1-55 air-conditioning system;  
 1-56 (B) provide incidental payment of indemnity  
 1-57 under limited circumstances, including food spoilage; or  
 1-58 (C) provide payment instead of repair when a  
 1-59 part, structural component, appliance, or service provider or  
 1-60 technician is unavailable [~~of a residential property, that is:~~

2-1 [~~(A) manufactured or sold by the manufacturer or~~  
2-2 ~~merchant, or~~  
2-3 [~~(B) installed by the merchant in a building or~~  
2-4 ~~residence~~].

2-5 SECTION 2. Section 1303.052(b), Occupations Code, is  
2-6 amended to read as follows:

2-7 (b) A residential service company shall pay to the  
2-8 commission a fee for:

2-9 (1) filing a [~~an annual~~] report under Section  
2-10 1303.202; and

2-11 (2) any other filing required by this chapter.

2-12 SECTION 3. Section 1303.053, Occupations Code, is amended  
2-13 by adding Subsection (c) to read as follows:

2-14 (c) Information prepared or compiled by the commission  
2-15 relating to an examination conducted under this section, including  
2-16 the examination file, is confidential and exempt from disclosure  
2-17 under Chapter 552, Government Code. The commission may withhold  
2-18 the information without the necessity of requesting a decision from  
2-19 the attorney general under Subchapter G, Chapter 552, Government  
2-20 Code.

2-21 SECTION 4. Section 1303.103, Occupations Code, is amended  
2-22 by amending Subsection (b) and adding Subsection (d) to read as  
2-23 follows:

2-24 (b) Each application for a license must contain or be  
2-25 accompanied by:

2-26 (1) a copy of the articles of incorporation, articles  
2-27 of association, partnership agreement, trust agreement, or any  
2-28 other basic organizational document of the applicant;

2-29 (2) a copy of any amendment to the applicant's basic  
2-30 organizational document;

2-31 (3) a copy of any bylaws, rules, or other similar  
2-32 document that regulates the conduct of the applicant's internal  
2-33 affairs;

2-34 (4) the name, address, and official position of each  
2-35 person who will be responsible for the conduct of the applicant's  
2-36 affairs, including:

2-37 (A) each member of the board of directors, board  
2-38 of trustees, executive committee, or other governing body or  
2-39 committee of the applicant;

2-40 (B) the applicant's principal officer, if the  
2-41 applicant is a corporation; and

2-42 (C) each partner or member of the applicant, if  
2-43 the applicant is a partnership or association;

2-44 (5) a copy of the residential service contract made or  
2-45 to be made between the applicant and another person;

2-46 (6) a general description of the residential service  
2-47 contract or the contract's coverage or plan;

2-48 (7) the most recent [a] financial statements for the  
2-49 applicant [statement that]:

2-50 (A) that are [is]:

2-51 (i) prepared by an independent certified  
2-52 public accountant; or

2-53 (ii) certified as accurate by at least two  
2-54 of the residential service company's principal officers, if the  
2-55 residential service company uses a reimbursement insurance policy  
2-56 to insure its outstanding residential service contracts written in  
2-57 this state in accordance with Section 1303.151(b) [within six  
2-58 months preceding the date the application is submitted]; and

2-59 (B) that show [shows] the applicant's assets,  
2-60 liabilities, and sources of financial support;

2-61 (8) a description of the applicant's proposed method  
2-62 of marketing a residential service contract;

2-63 (9) a statement regarding the applicant's sources of  
2-64 working capital and any other funding sources;

2-65 (10) if the applicant is not domiciled in this state, a  
2-66 power of attorney appointing the executive director  
2-67 [~~administrator~~] and the executive director's [administrator's]  
2-68 successors in office, or the executive director's [administrator's]  
2-69 authorized deputy, as the applicant's agent for service of process

3-1 in this state in a legal action arising in this state against the  
 3-2 applicant or the applicant's agents; and

3-3 (11) any other information the commission requires to  
 3-4 make a determination required by this chapter.

3-5 (d) The commission shall maintain the confidentiality of  
 3-6 information submitted to the commission by an applicant under this  
 3-7 section that is claimed to be confidential for competitive  
 3-8 purposes. The confidential information is exempt from disclosure  
 3-9 under Chapter 552, Government Code. The commission may withhold  
 3-10 the information without the necessity of requesting a decision from  
 3-11 the attorney general under Subchapter G, Chapter 552, Government  
 3-12 Code.

3-13 SECTION 5. Section 1303.151, Occupations Code, is amended  
 3-14 to read as follows:

3-15 Sec. 1303.151. RESERVE OR REIMBURSEMENT INSURANCE POLICY  
 3-16 REQUIRED. (a) Except as provided by Subsection (b), a [A]  
 3-17 residential service company shall maintain a funded reserve against  
 3-18 its liability to provide repair and replacement services under its  
 3-19 outstanding residential service contracts written in this state.

3-20 (b) Except as provided by Section 1303.152(d), a  
 3-21 residential service company is not required to maintain a funded  
 3-22 reserve if it insures all of its risk under its outstanding  
 3-23 residential service contracts written in this state under a  
 3-24 reimbursement insurance policy issued by:

3-25 (1) an admitted insurer; or

3-26 (2) a surplus lines insurer or a surplus lines bonding  
 3-27 company if the insurer or bonding company:

3-28 (A) is rated A+ or better by a rating service  
 3-29 recognized by the commission; and

3-30 (B) submits to the commission for its approval  
 3-31 evidence, in the form of a certified audit and other pertinent  
 3-32 information the commission may require, of the insurer's or bonding  
 3-33 company's ability to meet its contractual obligations.

3-34 SECTION 6. Section 1303.152, Occupations Code, is amended  
 3-35 by amending Subsection (c) and adding Subsection (d) to read as  
 3-36 follows:

3-37 (c) For purposes of this chapter, to the extent a  
 3-38 residential service company uses a reimbursement insurance policy  
 3-39 described by Section 1303.151(b) to insure an outstanding  
 3-40 residential service contract written in this state, the company's  
 3-41 reserve is not required to include a contract fee on the [a]  
 3-42 residential service contract [to the extent that provision is made  
 3-43 for reinsurance of the outstanding risk on the contract by:

3-44 [(1) a residential service company licensed in this  
 3-45 state,

3-46 [(2) an admitted insurer; or

3-47 [(3) a surplus line insurer or a surplus line bonding  
 3-48 company if the insurer or bonding company:

3-49 [(A) is rated A+ or better by a rating service  
 3-50 recognized by the commission; and

3-51 [(B) submits to the commission for its approval  
 3-52 evidence, in the form of a certified audit and other pertinent  
 3-53 information the commission may require, of the insurer's or bonding  
 3-54 company's ability to meet its contractual obligations].

3-55 (d) If a residential service company's reimbursement  
 3-56 insurance policy is issued by a captive insurance company as  
 3-57 defined by Section 964.001, Insurance Code, the residential service  
 3-58 company shall maintain a funded reserve of at least 25 percent of  
 3-59 the reserve amount described by Subsection (a).

3-60 SECTION 7. Subchapter D, Chapter 1303, Occupations Code, is  
 3-61 amended by adding Section 1303.1525 to read as follows:

3-62 Sec. 1303.1525. REIMBURSEMENT INSURANCE POLICY. (a) An  
 3-63 insurer that issues a reimbursement insurance policy to a  
 3-64 residential service company is considered to have received the  
 3-65 premiums for the policy on the dates contract holders pay for  
 3-66 residential service contracts issued by the residential service  
 3-67 company.

3-68 (b) An insurer may not cancel a reimbursement insurance  
 3-69 policy until the insurer mails or delivers a notice of cancellation

4-1 to the commission. The cancellation of the policy does not affect  
4-2 the issuer's liability for a residential service contract issued by  
4-3 the insured residential service company before the effective date  
4-4 of the cancellation.

4-5 SECTION 8. Section 1303.153, Occupations Code, is amended  
4-6 by amending Subsection (a) and adding Subsection (d) to read as  
4-7 follows:

4-8 (a) Except as provided by Subsection (d), as ~~[As]~~ a  
4-9 guarantee that a residential service company will meet its  
4-10 obligations to its contract holders, the company shall maintain  
4-11 with the commission a bond or other security accepted by the  
4-12 commission.

4-13 (d) This section does not apply to a residential service  
4-14 company that uses a reimbursement insurance policy to insure its  
4-15 outstanding residential service contracts written in this state in  
4-16 accordance with Section 1303.151(b).

4-17 SECTION 9. Section 1303.154, Occupations Code, is amended  
4-18 by amending Subsection (a) and adding Subsection (d) to read as  
4-19 follows:

4-20 (a) Except as provided by Subsection (d), an ~~[An]~~ applicant  
4-21 for a new license must provide security in the amount of \$25,000.  
4-22 The amount of the security may not be reduced before the residential  
4-23 service company files a second report under Section 1303.202.

4-24 (d) This section does not apply to a residential service  
4-25 company that uses a reimbursement insurance policy to insure its  
4-26 outstanding residential service contracts written in this state in  
4-27 accordance with Section 1303.151(b).

4-28 SECTION 10. Section 1303.202, Occupations Code, is amended  
4-29 to read as follows:

4-30 Sec. 1303.202. ~~[ANNUAL]~~ REPORT. (a) The commission may  
4-31 adopt rules requiring ~~[Not later than April 1 of each year,]~~ each  
4-32 residential service company to ~~[shall]~~ file with the commission a  
4-33 report that meets the requirements in Subsection (b) ~~[covering the~~  
4-34 ~~preceding calendar year]~~.

4-35 (b) The report must:

- 4-36 (1) be on a form prescribed by the commission;
- 4-37 (2) be verified by at least two of the residential  
4-38 service company's principal officers; and

4-39 (3) include:

4-40 (A) ~~[a]~~ financial statements ~~[statement]~~ of the  
4-41 residential service company, including its balance sheet and  
4-42 receipts and disbursements for the preceding year, certified as  
4-43 accurate by:

- 4-44 (i) an independent public accountant; or
- 4-45 (ii) at least two of the residential  
4-46 service company's principal officers, if the residential service  
4-47 company uses a reimbursement insurance policy to insure its  
4-48 outstanding residential service contracts written in this state in  
4-49 accordance with Section 1303.151(b);

4-50 (B) any material change to the information  
4-51 submitted under Section 1303.103, except an amendment to a  
4-52 residential service contract filed with the commission under  
4-53 Section 1303.251;

4-54 (C) if the residential service company maintains  
4-55 a reserve required by Section 1303.151(a), the number of  
4-56 residential service contracts entered into during the year, the  
4-57 number of contract holders as of the end of the year, and the number  
4-58 of contracts terminating during the year; and

4-59 (D) any other information that:

4-60 (i) relates to the performance and solvency  
4-61 of the residential service company; and

4-62 (ii) is necessary for the commission to  
4-63 perform its duties under this chapter.

4-64 (c) The commission shall maintain the confidentiality of  
4-65 information ~~[Information]~~ provided to the commission by a  
4-66 residential service company under this section that ~~[Subsection~~  
4-67 ~~(b)(3)(D)]~~ is claimed to be confidential for competitive purposes.  
4-68 The confidential information is exempt from disclosure under  
4-69 Chapter 552, Government Code. The commission may withhold the

5-1 information without the necessity of requesting a decision from the  
 5-2 attorney general under Subchapter G, Chapter 552, Government Code  
 5-3 [+

5-4 ~~[(1) confidential, and~~  
 5-5 ~~[(2) for the exclusive use of the commission].~~

5-6 SECTION 11. Section 1303.251, Occupations Code, is amended  
 5-7 to read as follows:

5-8 Sec. 1303.251. CONTRACT DELIVERY AND FILING [EVIDENCE OF  
 5-9 COVERAGE]. (a) Each contract holder residing in this state is  
 5-10 entitled to receive a copy of the [evidence of coverage under a]  
 5-11 residential service contract not later than the 15th day after the  
 5-12 date the contract holder pays for the residential service contract  
 5-13 or the effective date of the residential service contract,  
 5-14 whichever is later. The residential service company may provide  
 5-15 [that issued] the copy by mail, e-mail, or other means of delivery  
 5-16 acceptable to the commission [contract shall issue evidence of  
 5-17 coverage under the contract].

5-18 (b) A residential service company shall file with the  
 5-19 commission for approval [may not issue or deliver evidence of  
 5-20 coverage under] a residential service contract, or an amendment to  
 5-21 a previously filed residential service contract that changes the  
 5-22 residential service contract's coverage or substantially amends a  
 5-23 disclosure required by Section 1303.252 [evidence, to a person in  
 5-24 this state until a copy of the evidence or amendment is filed with  
 5-25 and approved by the commission].

5-26 (c) The commission may require a residential service  
 5-27 company to submit relevant information the commission considers  
 5-28 necessary to determine whether to approve or disapprove a filing  
 5-29 made under Subsection (b) [the company's evidence of coverage].

5-30 (d) The commission shall approve a filing made under  
 5-31 Subsection (b) [residential service company's evidence of  
 5-32 coverage] if the requirements of this section and Section 1303.252  
 5-33 are met.

5-34 (d-1) For a filing made under Subsection (b) after a  
 5-35 residential service company is licensed, the commission shall have  
 5-36 30 days to consider the filing from the date of the filing or the  
 5-37 date that the commission receives any associated filing fee,  
 5-38 whichever is later. On the 31st day after that date, the filing is  
 5-39 considered approved unless the commission disapproves the filing or  
 5-40 notifies the residential service company in writing that the filing  
 5-41 violates this section or Section 1303.252.

5-42 (d-2) If the commission notifies the residential service  
 5-43 company that the filing violates this section or Section 1303.252,  
 5-44 the residential service company may submit a written response to  
 5-45 that notification. The commission shall have 30 days to reconsider  
 5-46 the filing from the date that the commission receives the  
 5-47 residential service company's written response. On the 31st day  
 5-48 after the commission receives the residential service company's  
 5-49 written response, the filing is considered approved unless the  
 5-50 commission disapproves the filing. If the residential service  
 5-51 company does not respond in writing before the 61st day after being  
 5-52 notified by the commission that the filing violates this section or  
 5-53 Section 1303.252, the filing is automatically disapproved.

5-54 (d-3) The commission may not require a residential service  
 5-55 company to waive a 30-day consideration period provided by this  
 5-56 section or make the approval of a filing contingent on waiving a  
 5-57 30-day consideration period provided by this section.

5-58 (e) If the commission disapproves a filing made under  
 5-59 Subsection (b) [residential service company's evidence of  
 5-60 coverage], the commission shall notify the company of the  
 5-61 disapproval and in the notice shall specify in detail the reason for  
 5-62 the disapproval.

5-63 (f) A residential service company whose filing under  
 5-64 Subsection (b) [evidence of coverage] is disapproved by the  
 5-65 commission is entitled to a hearing conducted by the State Office of  
 5-66 Administrative Hearings [may request a hearing on the commission's  
 5-67 decision. If a hearing is requested, the commission shall set a  
 5-68 hearing on the decision as soon as reasonably possible. Not later  
 5-69 than the 60th day after the date of the hearing, the commission by

6-1 ~~written order shall approve or disapprove the evidence. If the~~  
6-2 ~~evidence is disapproved, the commission shall state in the order~~  
6-3 ~~the grounds for the disapproval].~~

6-4 (g) A hearing under Subsection (f) is governed by the  
6-5 contested case procedures under Chapter 2001, Government Code.

6-6 SECTION 12. Section 1303.252, Occupations Code, is amended  
6-7 to read as follows:

6-8 Sec. 1303.252. FORM OF CONTRACT AND REQUIRED DISCLOSURES  
6-9 [CONTENTS OF EVIDENCE OF COVERAGE]. (a) A residential service  
6-10 contract marketed, sold, offered for sale, issued, made, proposed  
6-11 to be made, or administered in this state must be written, printed,  
6-12 or typed in clear, understandable language that is easy to read and  
6-13 must disclose the following [Evidence of coverage under a  
6-14 residential service contract must contain a clear and complete  
6-15 statement, if the evidence is a contract, or a reasonably complete  
6-16 facsimile, if the evidence is a certificate, of]:

6-17 (1) the services or benefits to which the contract  
6-18 holder is entitled;

6-19 (2) any limitation on the services, kinds of services,  
6-20 or benefits to be provided, including a deductible or co-payment  
6-21 provision;

6-22 (3) where and in what manner information is available  
6-23 on how to obtain services;

6-24 (4) the period during which the coverage is in effect;

6-25 (5) the residential service company's agreement to  
6-26 perform services on the contract holder's telephone request to the  
6-27 company, without a requirement that a claim form or application be  
6-28 filed before the services are performed;

6-29 (6) the company's agreement that, under normal  
6-30 circumstances, the company will initiate the performance of  
6-31 services within 48 hours after the contract holder requests the  
6-32 services; and

6-33 (7) any service fee to be charged for a service call.

6-34 (b) A service fee under Subsection (a)(7) is not required to  
6-35 be preprinted on the residential service contract but must be  
6-36 disclosed in writing to the contract holder before the purchase of  
6-37 the residential service contract.

6-38 (c) A residential service contract insured under a  
6-39 reimbursement insurance policy in accordance with Section  
6-40 1303.151(b) must contain a statement substantially similar to the  
6-41 following: "The residential service company's obligations under  
6-42 this residential service contract are insured under a reimbursement  
6-43 insurance policy." The residential service contract must also:

6-44 (1) state the name and address of the insurer; and

6-45 (2) state that the contract holder may apply for  
6-46 reimbursement directly to the insurer if a covered service is not  
6-47 provided to the contract holder by the residential service company  
6-48 before the 61st day after the date the contract holder provides  
6-49 proof of loss.

6-50 (d) A residential service contract [Evidence of coverage]  
6-51 may not contain a provision that encourages misrepresentation or  
6-52 that is unjust, unfair, inequitable, misleading, deceptive, or  
6-53 false.

6-54 SECTION 13. Section 1303.253, Occupations Code, is amended  
6-55 to read as follows:

6-56 Sec. 1303.253. SCHEDULE OF CHARGES. (a) A residential  
6-57 service company shall file with the commission [may not use in  
6-58 conjunction with a residential service contract] a schedule of  
6-59 charges for services covered under a residential service [the]  
6-60 contract and any [or an] amendment to a previously filed [that]  
6-61 schedule before implementation of the schedule of charges or  
6-62 amendment [until a copy of the schedule or amendment is filed with  
6-63 and approved by the commission].

6-64 (b) A filing made under Subsection (a) by a residential  
6-65 service company that uses a reimbursement insurance policy to  
6-66 insure its outstanding residential service contracts written in  
6-67 this state in accordance with Section 1303.151(b) is not subject to  
6-68 approval by the commission and is made for informational purposes  
6-69 only.

7-1 (c) A filing made under Subsection (a) by a residential  
 7-2 service company that maintains a reserve required by Section  
 7-3 1303.151(a) may not be implemented until approved by the  
 7-4 commission.

7-5 (d) The commission shall approve a filing made under  
 7-6 Subsection (a) [~~schedule of charges~~] if the commission determines  
 7-7 that the filing [~~schedule~~] is reasonably related to the amount,  
 7-8 term, and conditions of the contract to which the filing applies.

7-9 (e) [~~(e)~~] If the commission determines that a filing made  
 7-10 under Subsection (a) [~~the schedule of charges~~] is not reasonably  
 7-11 related to the contract as described by Subsection (d) [~~(b)~~], the  
 7-12 commission may disapprove [~~reject~~] the filing [~~schedule~~]. If the  
 7-13 commission disapproves [~~rejects~~] the filing [~~schedule~~], the  
 7-14 commission shall notify the company of the disapproval [~~rejection~~]  
 7-15 and shall specify in detail the reason for the disapproval  
 7-16 [~~rejection~~].

7-17 (f) For a filing made under Subsection (a) by a residential  
 7-18 service company described by Subsection (c) after the residential  
 7-19 service company is licensed, the commission shall have 30 days to  
 7-20 consider the filing from the date of the filing or the date that the  
 7-21 commission receives any associated filing fee, whichever is later.  
 7-22 On the 31st day after that date, the filing is considered approved  
 7-23 unless the commission disapproves the filing or notifies the  
 7-24 residential service company in writing that the filing is not  
 7-25 reasonably related to the amount, term, and conditions of the  
 7-26 contract to which the filing applies.

7-27 (g) If the commission notifies the residential service  
 7-28 company that the filing is not reasonably related to the amount,  
 7-29 term, and conditions of the contract to which the filing applies,  
 7-30 the residential service company may submit a written response to  
 7-31 that notification. The commission shall have 30 days to reconsider  
 7-32 the filing from the date that the commission receives the  
 7-33 residential service company's written response. On the 31st day  
 7-34 after the commission receives the residential service company's  
 7-35 written response, the filing is considered approved unless the  
 7-36 commission disapproves the filing. If the residential service  
 7-37 company does not respond in writing before the 61st day after being  
 7-38 notified by the commission that the filing is not reasonably  
 7-39 related to the amount, term, and conditions of the contract to which  
 7-40 the filing applies, the filing is automatically disapproved.

7-41 (h) The commission may not require a residential service  
 7-42 company to waive a 30-day consideration period provided by this  
 7-43 section or make the approval of a filing contingent on waiving a  
 7-44 30-day consideration period provided by this section.

7-45 (i) [~~(d)~~] A residential service company whose filing under  
 7-46 Subsection (a) [~~schedule of charges~~] is disapproved [~~rejected~~] by  
 7-47 the commission is entitled to [~~may request~~] a hearing conducted by  
 7-48 the State Office of Administrative Hearings [~~on the commission's~~  
 7-49 ~~decision to be held as soon as reasonably possible~~]. [~~Not later~~  
 7-50 ~~than the 60th day after the date of the hearing, the commission by~~  
 7-51 ~~written order shall approve or reject the schedule. If the schedule~~  
 7-52 ~~is rejected, the commission shall state in the order the grounds for~~  
 7-53 ~~the rejection.~~]

7-54 (j) A hearing under Subsection (i) is governed by the  
 7-55 contested case procedures under Chapter 2001, Government Code.

7-56 SECTION 14. Section 1303.301(a), Occupations Code, is  
 7-57 amended to read as follows:

7-58 (a) A residential service company may not cause or permit  
 7-59 the use of:

7-60 (1) a false or misleading advertisement or  
 7-61 solicitation; or

7-62 (2) any deceptive residential service contract  
 7-63 [~~evidence of coverage~~].

7-64 SECTION 15. Section 1303.352(a), Occupations Code, is  
 7-65 amended to read as follows:

7-66 (a) The commission may discipline a residential service  
 7-67 company under Section 1303.351 if the continued operation of the  
 7-68 company would be hazardous to its contract holders or if the  
 7-69 company:

8-1 (1) operates in conflict with its basic organizational  
8-2 document or in a manner that is contrary to that described in and  
8-3 reasonably inferred from information submitted under Section  
8-4 1303.103, unless an amendment to the information has been filed  
8-5 with and approved by the commission;

8-6 (2) issues a residential service contract [~~evidence of~~  
8-7 ~~coverage~~] that does not comply with Sections 1303.251 and 1303.252;

8-8 (3) uses a schedule of charges that does not comply  
8-9 with Section 1303.253;

8-10 (4) is not financially responsible and may be  
8-11 reasonably expected to be unable to meet the company's obligations  
8-12 to contract holders;

8-13 (5) did not comply with Subchapter D;

8-14 (6) advertised or marketed the company's services in a  
8-15 false, misrepresentative, misleading, deceptive, or unfair manner;  
8-16 or

8-17 (7) otherwise did not substantially comply with this  
8-18 chapter or a rule adopted under this chapter.

8-19 SECTION 16. The changes in law made by this Act apply only  
8-20 to a residential service contract entered into or renewed on or  
8-21 after the effective date of this Act. A residential service  
8-22 contract entered into or renewed before that date is governed by the  
8-23 law as it existed immediately before the effective date of this Act,  
8-24 and that law is continued in effect for that purpose.

8-25 SECTION 17. This Act takes effect January 1, 2018.

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